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Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan

Report of the Secretary-General

Summary

The present report has been prepared by the Office of the United Nations High Commissioner for Human Rights, pursuant to General Assembly resolution 64/93, in which the Assembly requested the Secretary-General to report to the Assembly at its sixty-fifth session on the implementation of the resolution. The period covered by the report is September 2009 to August 2010.

The report addresses the continuation of Israeli settlement activities in the occupied Arab territories and its impact on the human rights of the residents.

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I. Introduction

1. In its resolution 64/93, the General Assembly expressed grave concern about the continuation by Israel, the occupying Power, of settlement activities in the Occupied Palestinian Territory, in violation of international humanitarian law, United Nations resolutions and agreements reached by the parties, particularly about Israel's construction and expansion of settlements in and around East Jerusalem, including its so-called E-1 plan that aims to connect its illegal settlements around and isolate occupied East Jerusalem from the West Bank, the continuing demolition of Palestinian homes and eviction of Palestinian families from the city and intensifying settlement activities in the Jordan Valley. It also expressed grave concern about the dangerous situation resulting from violent actions taken by armed Israeli settlers in the Occupied Palestinian Territory.

2. The General Assembly, in the same resolution, reaffirmed that the Israeli settlements in the Palestinian territory, including East Jerusalem, and in the occupied Syrian Golan were illegal and called upon Israel to strictly comply with its obligations under international law, including international humanitarian law, with respect to the alteration of the character, status and demographic composition of the Occupied Palestinian Territory, including East Jerusalem. In addition, the resolution reiterated the Assembly's demand for the complete and immediate halt of all Israeli settlement activities, including in East Jerusalem and the occupied Syrian Golan.

3. The General Assembly also called for the prevention of all acts of violence and harassment by Israeli settlers, especially against Palestinian civilians and their properties and agricultural lands, and stressed the need for the implementation of Security Council resolution 904 (1994), in which the Council called upon Israel to continue to take and implement measures, including the confiscation of arms, aimed at preventing illegal acts of violence by Israeli settlers. The resolution also called for measures to be taken to guarantee the safety and protection of the Palestinian civilians in the occupied territory.

4. The present report addresses progress made in the implementation of resolution 64/93 concerning, specifically, Israeli settlement activities in the occupied territories, violence by Israeli settlers and the status of the wall. The present report should be read in conjunction with the previous reports of the Secretary-General on this issue (A/64/516 and A/63/519). Whereas the previous reports provided a historical background to the issues of Israeli settlements, the present report provides an update on the settlements and highlights emerging concerns. The report relies heavily on information made publicly available by the Office for the Coordination of Humanitarian Affairs (see www.ochaopt.org).

II. Legal background

A. International humanitarian law

5. The most relevant international humanitarian law standards concerning Israel's responsibilities in the Occupied Palestinian Territory as the occupying Power are set out in the Fourth Geneva Convention relative to the Protection of Civilian Persons

in Time of War and in the Hague Regulations, which are recognized as part of customary international law.[1]

6. Article 49 of the Fourth Geneva Convention stipulates specifically that "the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies". Israel's continued settlement activities are in flagrant violation of this provision, as confirmed by the International Court of Justice in its advisory opinion on the wall. This has also been confirmed repeatedly by a number of United Nations resolutions, including, most recently, by General Assembly resolution 64/93 and Human Rights Council resolution 13/7.

7. The Hague Regulations prohibit an occupying Power from undertaking permanent changes in the occupied area unless they are due to military needs in the narrow sense of the term or unless they are undertaken for the benefit of the local population. The occupying Power must refrain from changing the character, status or demographic composition of the occupied territory. It is also bound to protect the rights of protected persons in occupied territories. In addition to the construction of the settlements themselves, other settlement-related activities, such as the confiscation of land, destruction of houses and orchards, the construction of roads meant for settlers only and the exploitation of natural resources within the occupied territory and altering the character and status of the occupied territory, are also prohibited by international law.

B. International human rights law

8. Israel has ratified several of the most important international human rights treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.

9. In its advisory opinion on the wall, the International Court of Justice affirmed that the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child were applicable in respect of acts carried out by and legal obligations of Israel in the Occupied Palestinian Territory (see A/ES-10/273 and Corr.1, paras. 102-113). The position of United Nations human rights treaty bodies mirrors that of the International Court of Justice, namely, that as a party to

[1] In its advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* of 2004 (see A/ES-10/273 and Corr.1), the International Court of Justice concluded that the Fourth Geneva Convention was applicable in the Palestinian territories which before the 1967 conflict, lay to the east of the Green Line and which, during that conflict, were occupied by Israel. Since then a significant number of the United Nations resolutions have reaffirmed the applicability of the Fourth Geneva Convention, the most recent being Human Rights Council resolutions S-9/1, 10/18 and 13/7 and General Assembly resolutions 63/96, 63/97, 63/201 and 64/93. In its advisory opinion, the Court recalled that while Israel was not a party to the Hague Convention Respecting the Laws and Customs of War on Land of 18 October 1907 (Convention IV), to which the Hague Regulations are annexed, the provisions of the Hague Regulations had become part of customary international law.

international human rights instruments, Israel continues to bear responsibility for implementing its human rights obligations in the Occupied Palestinian Territory under the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention against Torture, the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination to the extent that it continues to exercise jurisdiction in those territories.[2] The Court also noted that Israel's obligations under the International Covenant on Economic, Social and Cultural Rights include "an obligation not to raise any obstacle to the exercise of such rights in those fields where competence has been transferred to Palestinian authorities" (A/ES-10/273 and Corr.1, para. 112).

III. Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem

A. Overview

10. As indicated in the Secretary-General's previous report to the General Assembly (A/64/516), settlements remain an obstacle to peace and to the creation of the future Palestinian state. The Government of Israel had committed itself, under phase 1 of the road map, to freeze all settlement activity and to dismantle the outposts erected since March 2001 (S/2003/529, annex). The commitment was consistent with the recommendation contained in the report of the Sharm el-Sheikh Fact-Finding Committee of 2001, which stated that Israel should freeze all settlement activity, including the so-called "natural growth" of existing settlements, and that the kind of security cooperation desired by Israel could not coexist with settlement activity.

11. Despite the commitments made by the Government of Israel to cease settlement activity and international calls to halt expansion, settlements in the Occupied Palestinian Territory continue to expand in violation of Israel's obligations under international humanitarian law. In a positive step on 25 November 2009, Israel approved a 10-month moratorium on the construction of new settlements in the West Bank.[3] The moratorium did not, however, include those settlements for which permits had already been issued and whose foundations had been laid, as well as certain public buildings. Settlements in East Jerusalem, 2,500 apartments already under construction, and 455 housing units whose construction was authorized in September 2009 remained unaffected by the temporary halt.[4] The moratorium was further undermined by exceptions made by the Israeli Government authorizing the

[2] An examination of the concluding observations of different United Nations treaty bodies confirms this view. See A/HRC/8/17, para. 7; CCPR/C/ISR/CO/3, para. 5; CERD/C/ISR/CO/13, para. 32; CRC/C/15/Add.195; CAT/C/ISR/CO/4, para. 11; and A/60/38, part two, paras. 221-268.

[3] See the statement by Prime Minister Netanyahu on the Cabinet decision to suspend new construction in Judea and Samaria, 25 November 2009, available at: www.pmo.gov.il/PMOEng/Communication/EventsDiary/eventfreeze251109.htm.

[4] See B'Tselem, *By Hook and by Crook: Israeli Settlement Policy in the West Bank*, July 2010, available at: www.btselem.org/English/Publications/Summaries/201007_By_Hook_and_by_Crook.asp.

construction of 112 new units in Beitar Illit settlement, 84 new units in Modi'in Illit and 89 units in Ma'ale Adumim.[5] According to reports from Peace Now, as of August 2010 at least 600 housing units had started construction during the temporary moratorium, in over 60 different settlements.

12. By the end of 2009, approximately 301,200 settlers lived in the existing 121 official Israeli settlements in the West Bank.[6] Almost 195,000 settlers lived in 12 settlements in East Jerusalem. Statistics published in *The Jerusalem Post* indicate that in 2009 the settler population, excluding in East Jerusalem, grew by 4.9 per cent, a much faster rate than the general population in Israel (1.8 per cent). The Israeli non-governmental organization B'Tselem reports that the three largest settlements in the West Bank — Modi'in Illit, Betar Illit, and Ma'ale Adumim — had expanded significantly from 2001 to 2009 and that the population growth in those three settlements had been greater than the annual growth of the settler population as a whole.

13. During the moratorium, the Government of Israel increased the number of inspectors whose reports resulted in limiting some efforts by settlers to build. However, according to B'Tselem, in April 2010, five months after the 10-month moratorium began, the State Attorney's Office informed the Israeli High Court of Justice that, since the freeze had started, 423 files about illegal construction in the settlements had been opened. The Government also informed the High Court of its intention to legalize construction in the outposts of Derekh Ha'avot, Haresha, and Hayovel and to enable the expropriation of additional land, some of which is recognized by Israel as private Palestinian land.[4]

14. The Israeli Government continues to offer settlers a variety of benefits and incentives primarily in the spheres of construction, housing, education, industry, agriculture and tourism. These benefits are based on classification of the entire West Bank as a national priority area entitled to benefits. The Government approved a new decision in December 2009 to reclassify the national priority areas. Under the new scheme, settlements continue to be automatically entitled to benefits granted by the Government, whereas the granting of similar benefits to the Arab towns and villages remains within the discretion of individual ministers.[7]

15. In addition to settlements, there are currently more than 100 settlement outposts in the West Bank. Outposts are settlements built without official authorization, but often with the support and assistance of governmental ministries. As with Israeli settlements in the Occupied Palestinian Territory, the outposts are illegal under international humanitarian law. The outposts control some 16,000 dunam of land, of which 7,000 consist of private, Palestinian-owned land.[4] Despite an Israeli road map commitment to evacuate settlement outposts constructed since March 2001, the Israeli Government has undertaken only the evacuation of some non-residential structures in a very limited number of outposts. On 25 April 2010, as

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[5] See Peace Now, *August report: eight months into the settlement freeze*, 2 August 2010, available at: www.peacenow.org.il/site/en/peace.asp?pi=61&docid=4747.

[6] See B'Tselem, *By Hook and by Crook* (citing provisional figures released by the Central Bureau of Statistics, *Israeli Statistical Yearbook 2009*; these figures relate to settlements recognized by the Ministry of Interior and do not include outposts).

[7] See Adalah Position Paper, "On the Israeli Government's New Decision Classifying Communities as National Priority Areas", February 2010, available at: www.adalah.org/newsletter/eng/feb10/docs/english%20layout.pdf.

reported by Haaretz, the Government informed the High Court of Justice that it had decided to consider retroactively legalizing a West Bank outpost comprising 40 houses initially slated for demolition.

16. Israeli settlements, their infrastructure and the territory zoned for their expansion have been identified as the single largest factor shaping the system of access restrictions applied to the Palestinian population. The Office for the Coordination of Humanitarian Affairs reports that access restrictions to Palestinian farmland in the vicinity of Israeli settlements located on the eastern (Palestinian) side of the wall is widespread. While in some cases the restricted areas are unilaterally established and enforced by the settlers, in other cases the Israeli military erects fences around settlements, and declares the area behind the fence a special security area, where access for Palestinian farmers requires prior coordination with the Israeli Civil Administration.

17. The zoning regime applied by the Government of Israel in Area C, comprising 60 per cent of the West Bank, further benefits the establishment and growth of settlements while denying the natural growth and development of Palestinian communities. According to the Office for the Coordination of Humanitarian Affairs, the zoning regime applied by Israel in Area C effectively prohibits Palestinian construction in some 70 per cent of Area C, or approximately 44 per cent of the West Bank, while in the remaining 30 per cent a range of restrictions make it virtually impossible for Palestinians to obtain a building permit. In practice, Israeli authorities allow Palestinian construction only within the boundaries of an Israeli-approved plan which covers less than one per cent of Area C, much of which is already built up. As a result, Palestinians are left with no choice but to build "illegally" and hence risk demolition and displacement, as reported by B'Tselem. While the regime has heavily restricted Palestinian construction in Area C, including almost the entirety of the Jordan Valley, it has favoured a range of parallel practices in Israeli settlements.

B. Settlements in East Jerusalem

18. As indicated in the previous report of the Secretary-General (A/64/516), Israel's annexation of East Jerusalem immediately after the 1967 war is a flagrant violation of international law.[8] Contrary to its obligations under international law, Israel has constructed 12 settlements in East Jerusalem since its annexation, and the settler population currently stands at approximately 195,000.[9]

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[8] Article 2, paragraph 4 of the Charter of the United Nations, the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV), annex) and Security Council resolution 242 (1967) which emphasized the inadmissibility of the acquisition of territory by war; see also Security Council resolution 478 (1980) reiterating that Jerusalem is occupied territory.

[9] See Office for the Coordination of Humanitarian Affairs in the Occupied Palestinian Territory, *Humanitarian Monitor*, June 2010 explaining that the space for Palestinian construction continues to shrink. As of June 2010, whereas 35 per cent of land (24.50 square km) was zoned to be expropriated for Israeli settlements, merely 13 per cent (9.18 square km) was zoned for Palestinian construction.

19. As explained above, the 10-month moratorium announced by the Government in November 2009 did not apply to East Jerusalem. Indeed, the Government of Israel explicitly excluded East Jerusalem from the settlement restraint policy through the announcement on 17 November 2009 of a plan to expand the settlement of Gilo by approximately 900 housing units, as reported by Haaretz. There was an unannounced cessation of the Israeli policy of demolitions and evictions in East Jerusalem, which lasted for several months from the start of 2010 until mid-year. Since that time, the expansion of settlements in East Jerusalem has continued, most notably the plan to expand the settlement of Ramat Shlomo, followed by news of two developments in Sheikh Jarrah: the issuance of building permits for a new settlement at the site of Shepherd Hotel and plans for the new settlement of Shimon Ha-Tzaddik nearby. In addition, there have been announcements of new tenders for settlement construction in Neve Yaacov, Har Homa and Pisgat Zeev, and the announcement of major plans to "redevelop" part of Silwan. On 29 July 2010 Israeli settlers alleging ownership of a house in the Old City seized possession of a building in the Muslim Quarter, inhabited by 56 Palestinians, evicting 49 Palestinians including 29 children and eight refugees registered with the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

20. During the reporting period, the Government of Israel implemented a number of other policies, the purpose of which appears to be an effort to maintain a certain Jewish-Arab demographic balance in Jerusalem, as part of a long-articulated policy. In particular, the policies of the Government of Israel regarding urban planning in East Jerusalem, the dispensing of building permits and the demolition of homes built without permits continue to have discriminatory impacts on the Palestinian residents of East Jerusalem.[10] For instance, in June 2010, the Jerusalem Local Planning Committee approved a development plan for the Al-Bustan area of Silwan neighbourhood in East Jerusalem. The plan would lead to the demolition of more than 40 Palestinian buildings to make way for recreational areas and various commercial and residential structures. Some 500 Palestinians would be displaced as a result of this plan, according to the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 and the Office for the Coordination of Humanitarian Affairs.

21. Hundreds of Palestinians in the Sheikh Jarrah neighbourhood of East Jerusalem remain at risk of displacement as a result of efforts by settler organizations to have them evicted from their homes in order to make way for a new settlement. Since November 2008, a total of 56 people, including 20 children, have been evicted from their homes in Sheikh Jarrah. In addition, a part of the home of a family of 12 was taken over by settlers, accompanied by Israeli police, in December 2009, following the issuance of a court order authorizing the settlers to take possession of the uninhabited section of the house. The Office for the Coordination of Humanitarian Affairs estimates that 475 Palestinians are at risk of forced

[10] For example, the land available for Palestinians in East Jerusalem for the construction of houses is a mere 9.8 per cent of East Jerusalem, much of which is already built up. There are also difficulties that hinder Palestinians from obtaining permits. Also, the density, known as the plot ratio, permitted is half, or in some cases much less than half, that found in neighbouring Israeli settlements in East Jerusalem, or in West Jerusalem, thus limiting the possibility of housing for Palestinians. Between 1996 and 2000, for example, the number of recorded building violations was four and half times higher in Israeli areas (17,382 violations) than in the Palestinian areas of East Jerusalem (3,847 violations).

eviction, dispossession and displacement due to plans for settlement construction in Sheikh Jarrah.

22. Furthermore, the revocation of residency and social benefits of Palestinian residents who stay abroad for a continuous period of seven years or are unable to prove that they reside in East Jerusalem are discriminatory and appear to be aimed at ensuring that Palestinians leave the city.[11] According to the information released at the end of 2009 by the Israeli Ministry of Interior and as reported by the Office for the Coordination of Humanitarian Affairs, during 2008 the Ministry revoked the residency status of 4,577 Palestinian residents of East Jerusalem, including 99 children, denying them their right to reside or even enter East Jerusalem. This figure constitutes more than half the number of revocations recorded between 1967 and 2007 and represents a sharp increase compared to the number of residency revocations executed by the Ministry in previous years: 289 in 2007, 1,363 in 2006, and 222 in 2005. Similar figures regarding 2009 are currently unavailable. Once the residency is revoked, people lose their right to enter or reside in East Jerusalem, as well as the rights to register their children as residents or receive social benefits.

23. Finally, the Government of Israel has been planning to construct a new settlement between Ma'ale Adumim (a large settlement 14 kilometres east of Jerusalem, housing approximately 34,600 people) and East Jerusalem, the implementation of which would connect the two areas and cut off East Jerusalem from the rest of the West Bank. The proposed settlement (commonly known as the E-1, for "East 1" plan) consists of around 3,500 housing units, for approximately 15,000 people, commercial areas and tourism buildings. According to B'Tselem and Bimkom, this would entail expulsion of Jahalin Bedouins, who live a traditional semi-nomadic life in the area. Although the neighbourhood has not been built yet, Israel has already built the new Samaria and Judea (West Bank) Police District Headquarters there. While constructing the police headquarters, Israel paved roads and built infrastructure to serve hundreds of planned housing units and splitting the West Bank in two.

IV. Israeli settler violence in the Occupied Palestinian Territory

24. Violent acts by settlers against the Palestinian population of the Occupied Palestinian Territory continued. Data compiled by the Office for the Coordination of Humanitarian Affairs indicates that settler-related incidents, including violence committed by settlers against Palestinians and their property as well as incidents of trespassing, have increased significantly over recent years. From September 2009 to August 2010, the Office documented 283 such incidents. In the first eight months of 2010, 168 incidents of settler violence were recorded, compared to 92 incidents reported in the same period last year, indicating a dramatic increase in Israeli settler violence. Settler attacks during the reporting period included arson attacks on mosques, vandalizing olive trees, arson attacks on agricultural fields, killing livestock and assaulting Palestinian villagers, including children, living near settlements.

25. As recorded by the Office, settler harassment along with obstacles erected by settlers significantly impaired the access of Palestinian farmers to agricultural lands

[11] See A/HRC/13/54 and CERD/C/ISR/CO/13.

located in the vicinity of settlements, hence undermining the livelihood of dozens of families. The Israeli human rights group Yesh Din, in conjunction with Palestinian farmers from the villages of Jaba' and Silwad (West Bank), petitioned the Israeli High Court of Justice in November and December 2009, alleging that the Israeli authorities had failed to enforce the law on Israeli settlers who illegally prevent the access of Palestinian farmers to agricultural land located in the vicinity of, respectively, the Geva Binyamin and Ofra settlements. In both cases, the Palestinian owners have been unable to access the areas since 2000 owing to violence, harassment and intimidation at the hands of the settlers, who have fenced off and deployed attack dogs on part of the land.

26. Incidents of settler violence and harassment continued to disrupt the education of children in the West Bank. Since the beginning of 2010, the United Nations Children's Fund has reported one act of vandalism of a West Bank school by Israeli settlers. Settlers continue to attack the children on their journey to and from school. In particular, in the village of Al-Tuwani in the South Hebron Hills, since 2001, Israeli settlers from Havat Ma'on outpost have routinely attacked the children as they walked to or returned from school. In November 2004, Israeli authorities established a daily military escort. However, the soldiers have at times failed to provide a consistent escort for the children by not walking with them along the path in some cases, have at times refused to complete the escort until the end of the settlement and have forced the children to run. During the last school year, soldiers frequently arrived late, causing the children to wait, sometimes for hours, before and after school. As a result, during the 2009-2010 school year, the children have been victims of violence by settlers 19 times, missed almost 27 hours of school, and waited a total of 53 hours for military escort after school.

27. Many of the incidents of settler violence during the reporting period occurred in the context of a new pattern of violence, named by Israeli settlers as the "price tag" strategy by which Israeli settlers exact retribution on Palestinian villagers and their property in response to attempts by the Israeli authorities to dismantle unauthorized outposts in the West Bank.[3] The overall objective of the strategy is to deter the Israeli authorities from evacuating the outposts, enforcing the partial restraint policy or acting against what is perceived as the settlers' interests. It has at the same time contributed to displacement, temporary or permanent, of entire Palestinian communities. The following few examples recorded by the Office for the Coordination of Humanitarian Affairs, which occurred during the reporting period, while not exhaustive, are illustrative of the phenomenon.

28. On 9 September 2009, Israeli forces removed the small outpost of Givat Hadegel in southeast Hebron. Immediately afterwards, a group of over 10 Israeli settlers from the Suseya settlement entered the neighbouring Palestinian village of Susiya, hurled stones and physically assaulted a group of Palestinians. Fifteen members of one family, including three men, two women and 10 children were injured. No settlers were arrested by Israeli authorities. The outpost was rebuilt the same night.

29. In October 2009, in Kafr Qaddum village in Qalqiliya district, settlers from the Mitzpe Ami outpost burned 250 olive trees following evacuation of the outpost by the Israeli authorities.

30. On 16 April 2010, two Palestinian cars in the northern West Bank village of Hawara were torched, and "price tag" was scrawled on one of the cars. Two days

before the incident, settlers had vandalized a mosque in the Hawara and sprayed graffiti on its walls. Three cars belonging to Palestinians were torched around the same time.

31. The Israeli security forces have repeatedly failed to intervene and stop settler attacks on Palestinian civilians or arrest suspected settlers on the spot. While some efforts have been made to enforce the law on settlers involved in high-profile attacks on Palestinians and their property, generally the absence of accountability of Israeli settlers who perpetrate attacks against Palestinians further contributes to the continued cycle of violence. Israeli security forces apprehended two settlers alleged to have been involved in fatal attacks on Palestinians and these settlers are now being charged and tried in court. As the occupying Power, Israel is responsible under international humanitarian law, including the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and the Hague Regulations, for ensuring public order and safety in the Occupied Palestinian Territory, as well as for the protection of the civilian population from any threat or act of violence.

V. Settlements in the occupied Syrian Golan

32. As indicated in the previous report of the Secretary-General, the estimated Israeli population in the occupied Syrian Golan is between 17,000 and 21,000. According to the International Committee of the Red Cross, 6,400 are living in the town of Katzrin and the rest dispersed among 32 small settlements that extend over the majority of the Golan Heights. Since the occupation of the Syrian Golan in 1967, the Government of Israel has continued its settlement expansion, despite renewed General Assembly resolutions, including 63/99 and 64/95, calling upon Israel to refrain from doing so. Settlement activity in the occupied Syrian Golan is ongoing.

VI. The wall

33. The wall, with its gate and permit regime, continued to be the single greatest obstacle to Palestinian movement within the West Bank, including to and from Jerusalem. During the reporting period, construction of the wall focused on certain areas around Jerusalem and Bethlehem and some re-routings to implement rulings of the Israeli High Court of Justice. As of July 2010, approximately 60 per cent of the wall was complete and 85 per cent of its entire route ran inside the West Bank. The total area located between the wall and the Green Line constituted 9.5 per cent of the West Bank. This area includes the "seam zone", in which Palestinians must request permits from the Israeli authorities in order to access their agricultural land and water resources, and where access to health care and education is limited.[12] The protection of Israeli settlements, including areas planned for their future expansion,

[12] The Human Rights Committee, in its consideration of the report submitted by Israel, urged Israel to stop the construction of a "seam zone" by means of a wall, seriously impeding the rights to freedom of movement and to family life. Concluding Observations, Human Rights Committee, Israel, 29 July 2010 (CCPR/C/ISR/CO/3).

constitutes the major reason behind the deviation of the wall's route from the Green Line.[13]

VII. Recommendations

34. **The Government of Israel should abide by its international legal obligations and its pre-existing commitments as stated in the road map, as well as the repeated calls of the international community, namely, to cease transferring its civilian population into settlements, immediately and completely freeze all settlement activities, including in occupied East Jerusalem, and immediately dismantle outposts erected since March 2001.**

35. **The Government of Israel should immediately cease demolitions in Area C and adopt measures that will ensure that Palestinian planning and development needs are met.**

36. **The Government of Israel should cease to plan and implement policies, such as those regarding urban planning in East Jerusalem, the dispensing of building permits, and the demolition of homes constructed without permits, that alter the character, status and demographic composition of the Occupied Palestinian Territory, including East Jerusalem.**

37. **The Government of Israel must, in line with its obligations under international law, adopt all necessary measures to prevent attacks by Israeli settlers against Palestinian civilians and their property; ensure that Israeli security forces are properly instructed to protect Palestinian civilians from settler violence; and ensure that there is no impunity for crimes committed by Israeli settlers against Palestinian civilians and that redress is provided to the victims of such crimes.**

38. **The Government of Israel should take immediate action to fully comply with the advisory opinion of the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, namely, to cease construction of the wall, including in and around East Jerusalem, and to dismantle or re-route the constructed section to the Green Line.**

39. **The General Assembly and the international community should vigorously promote the implementation of its decisions, resolutions and recommendations and those of the Security Council, the International Court of Justice and the United Nations human rights mechanisms, including treaty bodies and special procedure mandate holders.**

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[13] See Office for the Coordination of Humanitarian Affairs in the Occupied Palestinian Territory, *West Bank Movement and Access* update, June 2010, available at: http://www.ochaopt.org/documents/ocha_opt_movement_access_2010_06_16_english.pdf.

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Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem

Report by the Secretary-General

Summary

The present report has been prepared pursuant to General Assembly resolution 64/94, by which the Secretary-General was requested to report to the Assembly at its sixty-fifth session on the implementation of the resolution. The period covered by the report is 1 September 2009 to 19 August 2010.

On the basis of material gathered by the Office of the United Nations High Commissioner for Human Rights, the report addresses selected aspects of the human rights situation in the Occupied Palestinian Territory.

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I. Introduction

1. The present report addresses the implementation of General Assembly resolution 64/94, entitled "Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem". The period covered by the report is 1 September 2009 to 19 August 2010. The information contained in the report is based on monitoring and other information-gathering activities carried out by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities in the Occupied Palestinian Territory, in particular the Office for the Coordination of Humanitarian Affairs (see http://www.ochaopt.org). It also contains information received from Israeli and Palestinian non-governmental organizations, human rights defenders and media sources.

2. Some of the themes identified in resolution 64/94 are addressed in separate reports of the Secretary-General submitted to the General Assembly at its sixty-fifth session. These include the issue of Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan, which is addressed in the report of the Secretary-General pursuant to General Assembly resolution 64/93 (A/65/365) and the issue of the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Occupied Palestinian Territory, including East Jerusalem, and the other occupied Arab territories, addressed in the report of the Secretary-General (A/65/355) pursuant to General Assembly resolution 64/92.

3. The present report examines the following themes identified in resolution 64/94:

(a) Excessive use of force, including the killing and injury of civilians;

(b) Firing of rockets against Israeli civilian areas resulting in loss of life and injury;

(c) Restrictions on freedom of movement, including with respect to movement into and from East Jerusalem, and restrictions amounting to a blockade on the Gaza Strip.

4. The situation in the Occupied Palestinian Territory with respect to international human rights and international humanitarian law has also been reviewed in other recent reports of the United Nations. In particular, the status of implementation of the recommendations contained in the report of the United Nations Fact-Finding Mission on the Gaza Conflict (A/HRC/12/48) is addressed in the report of the Secretary-General submitted pursuant to Human Rights Council resolution 13/9 (A/HRC/15/51) which updates the information contained in the report of the Secretary-General submitted pursuant to Council resolution S-12/1 on the same topic (A/HRC/13/55). A comprehensive review of the situation is contained in the report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1 (A/HRC/13/54).

II. Progress on the implementation of the resolution

A. Excessive use of force, including the killing and injury of civilians

5. Reports of the use of excessive force by Israeli authorities against the Palestinian civilian population continued to be received with frequency (see A/HRC/13/54). Incidences of excessive use of force typically occurred while Israeli authorities were operating checkpoints, detaining and interrogating Palestinians and responding to public demonstrations. Such incidences often resulted in the injury of civilians. Not infrequently, they also resulted in civilian deaths.

Killing of Palestinian civilians

6. According to information gathered by United Nations entities in the Occupied Palestinian Territory, the total number of Palestinian civilians killed by Israeli authorities during the period under consideration ranged from 15 to 18 persons.[1] Five were reportedly Palestinian children, including one seven-month-old infant.[2] The majority had allegedly been shot by Israeli authorities. Home demolitions, exposure to tear gas, prohibiting people from receiving medical treatment and other acts or omissions by Israeli authorities also resulted in the death of Palestinian civilians. As at the date of the present report none of the reported killings of civilians had led to a criminal investigation or to prosecutions for excessive use of force. Instead, according to the Office for the Coordination of Humanitarian Affairs and the non-governmental organization B'Tselem, there appears to have been impunity for Israeli authorities involved in the killing of Palestinian civilians.

7. It is relevant to note that, in its concluding observations following consideration of the third periodic report of Israel in July 2010, the United Nations Human Rights Committee expressed concern that Israel's targeting and extrajudicial execution of 184 persons in Gaza since 2003, had also resulted in the death of 155 additional individuals (see CCPR/C/ISR/CO/3, para. 10). In its report, the Committee called on Israel to protect every civilian's right to life and to establish an independent body to promptly and thoroughly investigate complaints about disproportionate use of force.

Injury of Palestinian civilians

8. Reports of Palestinian civilians injured by Israeli authorities were received on a regular basis throughout the period under consideration. It was not possible to conclude with absolute certainty that excessive force had been used in every case. The Office of the United Nations High Commissioner for Human Rights in the Occupied Palestinian Territory recorded over 600 injuries to Palestinian civilians by Israeli authorities where excessive force appeared to have been used. According to the Office for the Coordination of Humanitarian Affairs, this included 102 injuries to Palestinian children.

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[1] According to reports from Israeli and Palestinian non-governmental organizations, the total number of Palestinian civilians killed by Israeli authorities during this period may be as high as 34.

[2] This case was reported by the Palestinian Center for Human Rights and documented by the Office of the United Nations High Commissioner for Human Rights in the Occupied Palestinian Territory.

9. Many of the injuries occurred in connection with public demonstrations, whether against the construction of the barrier, home demolitions, the extension of Israeli settlements in the Occupied Palestinian Territory or actions of the Government of Israel concerning sites of religious importance to Palestinians. In its weekly report on the protection of civilians, the Office for the Coordination of Humanitarian Affairs highlighted the events that had occurred on 5 March 2010, when worshippers at the Al-Aqsa Mosque had protested against the decision of the Israeli Knesset to include the Al-Ibrahimi Mosque/Tomb of the Patriarchs in Hebron and Bilal Mosque/Rachel's Tomb in Bethlehem to the list of Israeli "national heritage sites". According to the Office for the Coordination of Humanitarian Affairs, 44 Palestinian civilians had reportedly been injured by Israeli authorities in that context, and 20 Israeli authorities had reportedly been injured by Palestinian protestors. A further eight Palestinian civilians had reportedly been injured in related demonstrations that had been held in the following days. There also appeared to have been impunity for Israeli authorities involved in the injury of the Palestinian civilians, according to the Office for the Coordination of Humanitarian Affairs and B'Tselem.

B. Firing of rockets against Israeli civilian areas resulting in loss of life and injury

10. In letters addressed to the United Nations High Commissioner for Human Rights, the Permanent Mission of Israel reported that rockets and mortars continued to be routinely fired from Gaza into Israeli civilian areas. A total of 68 separate incidents of rocket or mortar attacks fired from Gaza into Israel were reported between 1 September 2009 and 19 August 2010. Many of the incidents involved multiple rockets or mortar shells. The United Nations recorded the launching of 84 home-made rockets, 43 mortar shells and three grad rockets during the reporting period. It was not possible to determine whether the attacks had targeted military or civilian objectives. The type of rockets and mortars that were fired, however, are inherently indiscriminate and therefore violate international humanitarian law. Further, it has been alleged that such weapons are often launched from areas populated by civilians (see A/HRC/12/48, paras. 439-498), which is also contrary to international humanitarian law.

11. On 18 March 2010, a 30-year-old man died in Netiv Ha'asara, Israel, as a result of a rocket attack launched from Gaza. In addition, multiple indiscriminate rocket attacks caused physical injury to civilians and damaged buildings and other infrastructure in areas within their range. Such attacks also generally cause serious psychological trauma to the civilian population.

C. Restrictions on freedom of movement, including with respect to movement into and from East Jerusalem and restrictions amounting to a blockade on the Gaza Strip

Freedom of movement in the West Bank

12. An improvement in freedom of movement for Palestinians in the West Bank was documented during the reporting period. The Office for the Coordination of Humanitarian Affairs reported that the improvement was attributable to a package of

measures implemented by the Government of Israel, which had resulted in the removal of physical obstacles, conversion of permanent checkpoints into "partial" checkpoints, easing of controls at selected permanent checkpoints, lifting of vehicle permit requirements to enter and exit Nablus City and the opening of three sections of roads to Palestinians. The main impact of the measures was to significantly reduce travel time between cities and towns, thereby enhancing access by Palestinians to services, places of work and markets. In addition, on 24 May 2010, Israeli military authorities had announced their intention to implement another package of measures that would further decrease existing restrictions on freedom of movement for Palestinians in the West Bank.[3] The Office for the Coordination of Humanitarian Affairs reported that if the measures were fully implemented, the total number of physical obstacles would be at its lowest level since 2005.

13. However, a broad range of restrictions on freedom of movement remained in place throughout the Occupied Palestinian Territory. The principal restrictions consisted of physical obstacles, such as checkpoints, roadblocks, and the barrier, and administrative restrictions (see A/HRC/13/54, paras. 37-39), such as prohibited roads and permit requirements. In August 2010, as documented by the Office for the Coordination of Humanitarian Affairs, there were approximately 500 obstacles to movement in the West Bank, including 65 permanently staffed checkpoints, 22 "partial" checkpoints (staffed on an ad hoc basis) and 418 unstaffed obstacles (roadblocks, earthmounds, earth walls, road gates, road barriers and trenches). According to the Office for the Coordination of Humanitarian Affairs, this constituted a 20 per cent decrease in the total number of physical obstacles from the previous year. Following an announcement by the Israeli military on 24 May 2010, the number of physical restrictions has continued to be adjusted. The number of permanently staffed checkpoints has decreased by 1, to a total of 64, whereas the number of "partial" checkpoints has increased by 3, to a total of 25. The intention to eliminate 60 roadblocks was also stated in the package of measures announced on 24 May 2010.

14. It should be noted that, in addition to the physical restrictions mentioned above, the Israeli military frequently establishes ad hoc checkpoints ("flying" checkpoints). The unpredictability of "flying" checkpoints often results in longer, unexpected delays and hence an even greater burden on the daily life of Palestinians than permanent checkpoints. According to the Office for the Coordination of Humanitarian Affairs, an average of 310 "flying" checkpoints are set up every month. The primary objectives of such checkpoints appear to be to maintain a level of control over areas that have previously had a permanent checkpoint or roadblock, or to disrupt the convening of regular public demonstrations. They have also been set up in areas where Israeli vehicles have been subjected to stone throwing.

Movement into and out of East Jerusalem

15. Movement into and out of East Jerusalem for Palestinians did not improve during the reporting period. The barrier, checkpoints and restrictive permit system

[3] See Israeli Defense Forces, "Meeting between Israel Defense Forces OC Central Command and Palestinian Officials results in announcement regarding easing measures" (24 May 2010), available from http://idfspokesperson.com/2010/05/24/meeting-between-idf-oc-central-command-and-palestinian-officials-result-in-announcement-regarding-easing-measures-24-may-2010/.

severely limited such movement. Palestinians with West Bank identification continued to be generally barred from entering East Jerusalem. Those who obtained the requisite permits to enter East Jerusalem were only permitted to use 3 of the total of 16 checkpoints along the barrier, and then were only allowed to enter on foot following an extensive and intrusive examination.

16. The barrier continued to create strenuous difficulties for Palestinian communities on either side. Palestinians with West Bank identification who were living on the "Jerusalem" side of the barrier were greatly restricted in their ability to pass to the "West Bank" side, thus inhibiting their access to, among other things, family, education, work and services. Similarly, Palestinians with Jerusalem identification who were living on the "West Bank" side of the barrier, but within the city's boundaries, were forced to cross checkpoints to access other parts of the city. Moreover, a number of Palestinian communities with historical connections to Jerusalem have been separated therefrom due to the barrier. The Office for the Coordination of Humanitarian Affairs reported that, as a result, many Palestinians with Jerusalem identification have had to move from their communities to areas within the Israeli-defined municipal boundary.

Restrictions amounting to a blockade on the Gaza Strip

17. On 20 June 2010, the Government of Israel announced a new civilian policy towards the Gaza Strip, as contained in the Israeli Security Cabinet decision of 20 June 2010, which led to a significant increase in the quantity and types of goods allowed entry into Gaza. The non-governmental organization Gisha: Legal Center for Freedom of Movement reported, however, that although the decision called for "streamlining the entry and exit policy for people on the basis of humanitarian and medical reasons and for international aid organizations recognized by the Government of Israel", the policy did not change the restrictions on freedom of movement to and from Gaza. Such restrictions continue to affect Palestinians, not only those living in Gaza but also Palestinians from the West Bank, including East Jerusalem, and abroad. In relation to medical cases, widely respected national and international non-governmental organizations, such as Physicians for Human Rights, Adalah and Al-Mezan, asserted that Israeli authorities had routinely denied permits even when medical treatment outside of Gaza was required. Furthermore, Israeli authorities maintained an absolute ban on family visits of Palestinians living in the West Bank to their relatives in Gaza, and vice versa. Likewise, the ban on students from Gaza attending universities elsewhere in Palestine or abroad, with some exceptions, was maintained and reaffirmed by the High Court of Justice.[4] In a positive development, the small number of businessmen allowed to exit Gaza into Israel has steadily increased since June.

18. In addition to restrictions on movement to and from Gaza, the Israeli military enforced limitations on freedom of movement within the Gaza Strip. Although the Government of Israel has not officially confirmed the specific parameters of the limitations in force, a recent study published by the Office for the Coordination of Humanitarian Affairs and the World Food Programme (WFP) estimated that, since 2008, Palestinians had been totally or partially prevented from accessing land located up to 1,000-1,500 metres from the Green Line (depending on the specific area), and sea areas beyond three nautical miles from the shore. This equals an estimated 17 per cent of the total land mass of Gaza — 35 per cent of its agricultural land, and 85 per cent of the maritime areas in which Gazans are entitled to carry out fishing activities pursuant to

[4] See Israeli High Court of Justice, *Fatma Sharif v. Defense Ministry*, 6 July 2010.

the Oslo Agreements. Negative impacts that have resulted from these restrictions on movement within Gaza include greatly diminished agricultural and fishing industries, with concomitant decreases in the Gazan economy and livelihoods. Moreover, the lack of clear guidelines from the Israeli military as to the precise restrictions in force — restrictions that are often enforced by opening live fire — has led to the death and injury of civilians.[5]

III. Recommendations

19. **The Government of Israel should take immediate actions to prevent further incidences of excessive use of force against Palestinian civilians. Such actions should include comprehensive training in international human rights standards relevant to law enforcement for Israeli authorities involved in security operations in the Occupied Palestinian Territory. They should also include efforts to eliminate impunity for violations that result from excessive use of force, in particular by carrying out independent and impartial investigations into credible allegations of excessive use of force and, where allegations are substantiated, criminally prosecuting perpetrators.**

20. **The firing of indiscriminate rockets and mortars into southern Israel must stop. The launching of such weapons has resulted in death, injury, damage to infrastructure and general terror among the civilian population, in flagrant violation of international humanitarian law. All relevant parties on the Palestinian side should make urgent, vigorous efforts to end the firing of such weapons.**

21. **While welcoming the progress that has resulted from recent measures implemented by the Government of Israel, much remains to be done to fulfil the right of Palestinians to freedom of movement. As an initial step, Israel should implement further measures to remove physical restrictions on freedom of movement throughout the West Bank, including East Jerusalem, and ensure that all relevant administrative rules and requirements are consistent with international human rights and humanitarian laws. Further, Israel should cease construction of the barrier and dismantle portions already built in the Occupied Palestinian Territory, in accordance with the International Court of Justice advisory opinion of 9 July 2004, on legal consequences of the construction of a wall in the Occupied Palestinian Territory. In relation to the Gaza Strip, Israel must immediately and publicly clarify the restrictions it intends to enforce on freedom of movement within Gaza and publicly issue relevant guidelines. Such restrictions should not be enforced, in the first instance, by opening live fire, and their parameters should give due consideration to the Gazan agricultural and fishing industries. Finally, and again noting recent progress in this area as a result of positive measures implemented by the Government of Israel, Israeli authorities should place priority on the full implementation of Security Council resolution 1860 (2009) and on reopening the crossing points in line with the 2005 Agreement on Movement and Access between the Palestinian Authority and Israel.**

[5] The Office for the Coordination of Humanitarian Affairs also noted, in this regard, the role of Palestinian armed groups in increasing risks to civilians in the areas subject to restrictions by the Israeli military, as a result of carrying out military activities in the vicinity.